

Assembly Bill No. 2251

Passed the Assembly August 21, 2006

Chief Clerk of the Assembly

Passed the Senate August 17, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 3.25 (commencing with Section 6218) to Division 7 of Title 1 of the Government Code, relating to reproductive health care services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2251, Evans. Reproductive health care services: confidentiality of personal information.

(1) Existing law, to be repealed on January 1, 2008, establishes the Address Confidentiality for Reproductive Health Care Services Providers, Employees, Volunteers, and Patients program to protect the confidentiality of home address information of reproductive health care services providers, employees, volunteers, and patients. The program authorizes specified persons to complete an application to be filed with the Secretary of State for the purpose of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record. Under existing law, any person who makes a false statement in an application is guilty of a misdemeanor.

This bill would prohibit any person, business, or association from knowingly publicly posting or displaying on the Internet the home address or home telephone number, of any provider, employee, volunteer, or patient of a reproductive health care services facility or of persons residing at the same home address of those persons with the intent to incite a 3rd person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the 3rd person is likely to commit this harm, or to threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for his or her personal safety. The bill would establish a cause of action for damages and declaratory relief for violations.

(2) This bill would, in addition, prohibit the public posting or displaying on the Internet of a home address or home telephone number after a written demand and would permit injunctive and

declaratory relief in such a case. The bill would prohibit the Internet sale or trade of this information with the intent specified in paragraph (1) above, and would authorize recovery of money damages for violations.

The people of the State of California do enact as follows:

SECTION 1. Chapter 3.25 (commencing with Section 6218) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 3.25. ONLINE PRIVACY FOR REPRODUCTIVE
HEALTH SERVICES PROVIDERS, EMPLOYEES, VOLUNTEERS, AND
PATIENTS

6218. (a) (1) No person, business, or association shall knowingly publicly post or publicly display on the Internet the home address, home telephone number, or image of any provider, employee, volunteer, or patient of a reproductive health services facility or other individuals residing at the same home address with the intent to do either of the following:

(A) Incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm.

(B) Threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for his or her personal safety.

(2) A provider, employee, volunteer, or patient of a reproductive health services facility whose home address, home telephone number, or image is made public as a result of a violation of paragraph (1) may do either or both of the following:

(A) Bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the successful plaintiff court costs and reasonable attorney's fees.

(B) Bring an action for money damages in any court of competent jurisdiction. In addition to any other legal rights or

remedies, if a jury or court finds that a violation has occurred, it shall award damages to that individual in an amount up to a maximum of three times the actual damages, but in no case less than four thousand dollars (\$4,000).

(b) (1) No person, business, or association shall publicly post or publicly display on the Internet the home address or home telephone number of any provider, employee, volunteer, or patient of a reproductive health services facility if that individual has made a written demand of that person, business, or association to not disclose his or her home address or home telephone number. A demand made under this paragraph shall include a sworn statement declaring that the person is subject to the protection of this section and describing a reasonable fear for the safety of that individual or of any person residing at the individual's home address, based on a violation of subdivision (a). A written demand made under this paragraph shall be effective for four years, regardless of whether or not the individual's affiliation with a reproductive health services facility has expired prior to the end of the four-year period.

(2) A provider, employee, volunteer, or patient of a reproductive health services facility whose home address or home telephone number is made public as a result of a failure to honor a demand made pursuant to paragraph (1) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the successful plaintiff court costs and reasonable attorney's fees.

(3) This subdivision shall not apply to a person or entity defined in Section 1070 of the Evidence Code.

(c) (1) No person, business, or association shall solicit, sell, or trade on the Internet the home address, home telephone number, or image of a provider, employee, volunteer, or patient of a reproductive health services facility with the intent to do either of the following:

(A) Incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm.

(B) Threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for his or her personal safety.

(2) A provider, employee, volunteer, or patient of a reproductive health services facility whose home address, home telephone number, or image is solicited, sold, or traded in violation of paragraph (1) may bring an action in any court of competent jurisdiction. In addition to any other legal rights and remedies, if a jury or court finds that a violation has occurred, it shall award damages to that individual in an amount up to a maximum of three times the actual damages, but in no case less than four thousand dollars (\$4,000).

(d) An interactive computer service or access software provider, as defined in Section 230(f) of Title 47 of the United States Code, shall not be liable under this section unless the service or provider intends to abet or cause bodily harm that is likely to occur or threatens to cause bodily harm to a provider, employee, volunteer, or patient of a reproductive health services facility or any person residing at the same home address.

(e) Nothing in this section is intended to preclude punishment under any other provision of law.

6218.05. For purposes of this chapter, the following terms have the following meanings:

(a) “Reproductive health care services” means health care services relating to the termination of a pregnancy in a reproductive health care services facility.

(b) “Reproductive health care services provider, employee, volunteer, or patient” means a person who obtains, provides, or assists, at the request of another person, in obtaining or providing reproductive health care services, or a person who owns or operates a reproductive health care services facility.

(c) “Reproductive health care services facility” includes a hospital, an office operated by a licensed physician and surgeon, a licensed clinic or a clinic exempt from licensure, or other licensed health care facility that provides reproductive health care services and includes only the building or structure in which the reproductive health care services are actually provided.

(d) “Publicly post” or “publicly display” means to intentionally communicate or otherwise make available to the general public.

(e) “Image” includes, but is not limited to, any photograph, video footage, sketch, or computer-generated image that provides a means to visually identify the person depicted.

Approved _____, 2006

Governor